IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1003 OF 2006

Sajid Abdul Wahid Shaikh
Age about 28 years,
Residing at Room No.2, 3rd Floor,
"C" Block, 80, Kalyan Building,
P.B.Marg, Mumbai 400 007.
at present detained at Thane
Central Prison, Thane at present
detained at Thane Central Prison,
Thane. Petitioner
(Detenu)

vs.

1. The Commissioner of Police,
Greater Mumbai,
Mumbai.

2. The State of Maharashtra

3. The Superintendent,
Thane Central Prison,
Thane.

4. The Superintendent,
Nashik Road Central Prison,
Nashik. Respondents

None for the petitioner.

Mrs.A.S.Pai, APP for the State.

CORAM : SMT.RANJANA DESAI &
ANOOP V. MOHTA,JJ.

DATED : 13th February, 2007

ORAL JUDGMENT (Per Smt.Ranjana Desai,J.).

The petitioner was detained under an order of detention dated 15th December, 2005 issued by the Commissioner of Police, Mumbai under the provisions of

the Maharashtra Prevention of Dangerous Activities of Slum Lords, Bootleggers, Drug Offenders and Dangerous Persons Act, 1981 (for short, "MPDA"). The order of detention, grounds and material in respect thereof were served on the petitioner on 19th December, 2005. The detenu was detained and lodged in Nashik Central Prison. We are informed by the learned APP Mrs.A.S. Pai that the period of detention is over and the detenu has been released from the detention after completion of one year.

2. Mr.Nitin Sejpal, the learned counsel for the petitioner is not present.

3. The learned APP has drawn our attention to the judgment of the Supreme Court in **Mohit Chandra Saha v. The District Magistrate, 24 Parganas Alipore, Calcutta-27 & ors., AIR 1974 SC 2287.** Relying on this judgment, the learned APP contended that since the petitioner has been released from detention, the questions raised in the petition have become academic. The petition has become infructuous and, therefore, it should be dismissed as such.

4. We find substance in the submission of the learned APP. In Mohit Chandra Saha's case the order of

detention issued against the petitioner therein was revoked by the Government and the detenu therein was released from detention. The Supreme Court observed that even if the State Government had not passed the order of revocation and released the petitioner, the order of detention would in any case have come to an end on January 14, 1972 since under Section 13 of the West Bengal (Prevention of Violent Activities) Act under which the detenu therein was detained, the detenu could not have been kept under detention for more than maximum period of one year from the date of detention. The Supreme Court observed that since the detenu has been released, the questions raised on his behalf have become academic and the petition has also become infructuous. The Supreme Court further observed that in this situation, no useful purpose will be served by answering the points which have become academic and only proper course to adopt is to dismiss the petition on the ground that it has now become infructuous. The petition was accordingly dismissed as infructuous. In our opinion, the ratio of this judgment is clearly attracted to the facts of this case. The questions raised in this petition have become academic in view of the fact that the detenu has been released from detention.

5. Hence, we pass the following order:

O R D E R

(1) As the petitioner has been released from detention, the petition has become infructuous and hence it is disposed of as such.

(2) Rule discharged.

[SMT.RANJANA DESAI,J.]

[ANOOP V. MOHTA,J.]